



[Billing Code: 4810–31–P]

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2018–0010]

[T.D. TTB–157; Ref: Notice No. 179]

RIN: 1513–AC41

Establishment of the Eastern Connecticut Highlands Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 1,246 square-mile “Eastern Connecticut Highlands” viticultural area in all or portions of Hartford, New Haven, Tolland, Windham, New London, and Middlesex Counties in Connecticut. The Eastern Connecticut Highlands viticultural area is not located within any other established viticultural area and does not overlap any other established AVA. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kate M. Bresnahan, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 151.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes the establishment of definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and

submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;

- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Eastern Connecticut Highlands Petition

TTB received a petition from Steven Vollweiler, president of Sharpe Hill Vineyard, proposing the establishment of the “Eastern Connecticut Highlands” AVA in all or portions of Hartford, New Haven, Tolland, Windham, New London, and Middlesex Counties in Connecticut. The proposed Eastern Connecticut Highlands AVA covers approximately 1,246 square-miles and is not located within nor overlaps any other AVA. There are 16 commercially-producing vineyards covering a total of approximately 114.75 acres within the proposed AVA, as well as 6 bonded wineries. According to the petition, an additional 20.5 acres of commercial vineyards are planned for planting in the next few years. According to the petition, the distinguishing features of the proposed AVA are its geology, topography, soils, and climate.

The petition states that the proposed Eastern Connecticut Highlands AVA is underlain by Paleozoic formation called Iapetus Terrane, which is comprised mostly of metamorphic rocks that are difficult to erode, resulting in the hills and mountains that characterize the proposed AVA. To the west of the proposed AVA, the Central Valley is comprised of younger, more easily eroded sandstone, shale, and basalt lava flows that have a significantly different chemical composition than that of the proposed AVA. The regions to the east and south of the proposed AVA are part of the Avalonia Terrane, which consists of older, Pre-Cambrian rocks.

According to the petition, the proposed Eastern Connecticut Highlands AVA is characterized by hilly-to-mountainous terrain, with elevations ranging from 200 to 1,000 feet in elevation. The eastern and western edges of the proposed AVA are characterized by sharp ridgelines and high elevations, while the central portion of the proposed AVA is comprised of rounded hills. By contrast, the region to the west of the proposed AVA is a broad, flat valley with low elevations. The coastal region to the south of the proposed AVA also contains generally lower elevations than those within the proposed AVA. The terrain of the proposed AVA extends north into Massachusetts and east into Rhode Island, however, the elevations differ in those locations. The petition adds that the topography of the proposed AVA affects viticulture because topography affects climate. Regions with higher elevations, such as the proposed AVA, generally have a colder climate than regions with lower elevations, such as the region to the west of the proposed AVA. Additionally, regions that are closer to the coast,

such as the region to the south of the proposed AVA and the lower elevations of region to the east, are more significantly affected by maritime climate than higher inland regions like the proposed AVA.

The petition states that the soils in the proposed AVA developed on lodgement till, which is material deposited by glaciers as they move across the landscape. The soils are thick sandy-to-silty loams and range from well to poorly drained. In contrast, the region to the south of the proposed AVA contains only a small amount of lodgement till. The regions to the south and west of the proposed AVA formed on ablation till, which is material deposited as a stagnant or slow-moving glacier melts. The petition also provided information on the concentrations of seven elements found in the soils of the proposed AVA and the regions to the east, south, and west that play vital roles in vine nutrition: Calcium, iron, magnesium, potassium, phosphorous, sulfur, and zinc. When compared to the soils in the region to the west of the proposed AVA, the proposed AVA has higher levels of calcium, iron, magnesium, and sulfur, and lower levels of potassium, phosphorous, and zinc. Compared to the soils to the east and south, the proposed AVA has similar levels of calcium, phosphorous, and sulfur, higher levels of iron, magnesium, and zinc, and lower levels of potassium. The petition also shows these element levels give soil in the proposed AVA conditions that provide for grapevine growth, as well as prevent chlorosis in the vines.

The petition included information of the average annual temperatures, growing degree days (GDD)¹, coldest recorded temperature, average date of the latest spring frost, and average date of the earliest fall frost for the Eastern Connecticut Highlands AVA and the surrounding regions. The data was collected from 1996 to 2015. While the proposed AVA has average annual temperatures that are generally similar to the surrounding regions, the data shows more pronounced differences in other climate measurements. The proposed AVA has significantly higher GDD accumulations than the region to its north, indicating warmer growing season temperatures. The proposed AVA also has a shorter growing season than most of the areas to the north, as indicated by a later last-spring-frost date and earlier first-fall-frost date for the proposed AVA. The proposed AVA has lower GDD accumulations and a shorter growing season than the regions to the south and east. Finally, the proposed AVA has lower GDD accumulations and a shorter growing season than the region to its west.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 179 in the **Federal Register** on December 13, 2018 (83 FR 64,047), proposing to establish the Eastern Connecticut Highlands AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the

¹ See Albert J. Winkler et al., *General Viticulture* 61 – 64 (Berkeley: University of California Press, 2nd ed. 1974). In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDD), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth.

name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 179. In Notice No. 179, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on February 11, 2019.

In response to Notice No. 179, TTB received one comment from a member of the public. The commenter supported the establishment of the Eastern Connecticut Highlands viticultural area due to the climate and soil differences between the Eastern Connecticut Highlands AVA and in the regions surrounding it.

TTB Determination

After careful review of the petition and the comment received in response to Notice No. 179, TTB finds that the evidence provided by the petitioner supports the establishment of the Eastern Connecticut Highlands AVA.

Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Eastern Connecticut Highlands” AVA in all or portions of Hartford, New Haven, Tolland, Windham, New London, and Middlesex Counties in Connecticut, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Eastern Connecticut Highlands AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, “Eastern Connecticut Highlands,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name “Eastern

Connecticut Highlands” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. The establishment of the Eastern Connecticut Highlands AVA will not affect any existing AVA. The establishment of the Eastern Connecticut Highlands AVA will allow vintners to use “Eastern Connecticut Highlands” as an appellation of origin for wines made primarily from grapes grown within the Eastern Connecticut Highlands AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Kate M. Bresnahan of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.267 to read as follows:

§ 9.267 Eastern Connecticut Highlands.

(a) *Name.* The name of the viticultural area described in this section is “Eastern Connecticut Highlands”. For purposes of part 4 of this chapter, “Eastern Connecticut Highlands” is a term of viticultural significance.

(b) *Approved maps.* The one United States Geological Survey (USGS) 1:125,000 scale topographic map used to determine the boundary of the Eastern Connecticut Highlands viticultural area is titled “State of Connecticut.”

(c) *Boundary.* The Eastern Connecticut Highlands viticultural area is located in Hartford, New Haven, Tolland, Windham, New London, and Middlesex Counties in Connecticut. The boundary of the Eastern Connecticut Highlands viticultural area is as described below:

(1) The beginning point is on the State of Connecticut map at the intersection of State Highway 83 and the Massachusetts–Connecticut State line

in Somers. From the beginning point, proceed east along the Massachusetts–Connecticut State line approximately 33 miles to the intersection of the shared State line and an unnamed road, known locally as Bonnette Avenue, in Thompson; then

(2) Proceed southeast along Bonnette Avenue approximately 0.38 mile to its intersection with an unnamed road known locally as Sand Dam Road; then

(3) Proceed southeast along Sand Dam Road approximately 1.5 miles to its intersection with an unnamed road known locally as Thompson Road; then

(4) Proceed south along Thompson Road approximately 1,000 feet to its intersection with an unnamed road known locally as Quaddick Town Farm Road; then

(5) Proceed east then south along Quaddick Town Farm Road approximately 5.5 miles into the town of Putnam, where the road becomes known as East Putnam Road, and continuing south along East Putnam Road approximately 1 mile to its intersection with U.S. Highway 44; then

(6) Proceed west along U.S. Highway 44 approximately 1 mile to its intersection with an unnamed road known locally as Tucker Hill Road; then

(7) Proceed south along Tucker Hill Road approximately 0.38 mile to its intersection with an unnamed road known locally as Five Mile River Road; then

(8) Proceed southwest then west along Five Mile River Road 1.75 miles to its intersection with State Highway 21; then

(9) Proceed south along State Highway 21 approximately 2 miles to its intersection with State Highway 12; then

(10) Proceed south along State Highway 12 approximately 1 mile to its intersection with Five Mile River; then

(11) Proceed west along Five Mile River approximately 0.13 mile to its intersection with the highway marked on the map State Highway 52 (also known as Interstate 395); then

(12) Proceed south along State Highway 52/Interstate 395 approximately 14.5 miles to its intersection with State Highway 201; then

(13) Proceed southeast along State Highway 201 approximately 5.25 miles to its intersection with State Highway 165; then

(14) Proceed southwest along State Highway 165 approximately 10 miles to its intersection with State Highway 2; then

(15) Proceed west along State Highway 2 approximately 1 mile to its intersection with State Highway 82; then

(16) Proceed southwest, then northwest, then southwest along State Highway 82 approximately 27.72 miles to its intersection with State Highway 9; then

(17) Proceed southeast along State Highway 9 approximately 3.7 miles to its intersection with State Highway 80; then

(18) Proceed west along State Highway 80 approximately 15.7 miles to its intersection with State Highway 77; then

(19) Proceed north along State Highway 77 approximately 8.3 miles to its intersection with State Highway 17; then

(20) Proceed northeast along State Highway 17 approximately 6.8 miles to the point where it becomes concurrent with State Highway 9; then

(21) Proceed north along concurrent State Highway 17–State Highway 9 approximately 0.75 mile the point where State Highway 17 departs from State Highway 9; then

(22) Proceed east along State Highway 17 approximately 0.25 mile, crossing over the Connecticut River, to the highway's intersection with State Highway 17A; then

(23) Proceed north along State Highway 17A approximately 3 miles to its intersection with State Highway 17; then

(24) Proceed north along State Highway 17 approximately 8 miles to its intersection with State Highway 94; then

(25) Proceed east along State Highway 94 approximately 4 miles to its intersection with State Highway 83; then

(26) Proceed north along State Highway 83 approximately 25 miles, returning to the beginning point.

Signed: July 9, 2019.

Mary G. Ryan,

Acting Administrator.

Approved: September 23, 2019.

Timothy E. Skud,

*Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).*

